IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

W.A.No.1571 of 2004

AGAINST THE JUDGEMENT IN O.P.NO.16656/1998 DATED 14/11/2003

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APPELLANT: PETITIONER:-

MANGALACKAL HANDLOOM WEAVERS
(PRODUCTION-CUM-SALE) CO-OPERATIVE
SOCIETY LTD; NO.H-23, KATTAKADA P.O.,
REP: BY ITS SECRETARY G.MANOHARAN.

BY ADV. SRI.D.SOMASUNDARAM.

RESPONDENTS: RESPONDENTS:-

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1. DIRECTOR OF HANDLOOMS AND TEXTILES, TRIVANDRUM.

2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, TRIVANDRUM.

BY SENIOR GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.1571 of 2004 & C.M.Appln.No.1724 of 2004

Dated, this the 25th day of June, 2007

JUDGMENT

H.L.Dattu,C.J.

Smt.Meera, Senior Government Pleader is directed to take notice for the respondents and she is permitted to file her memo of appearance in six weeks' time.

2. The delay in filing the appeal is condoned.

3. The appellant, aggrieved by the orders passed by the learned Single Judge in O.P.No.16656 of 1998 dated 14.11.2003, is before us in this Writ Appeal.

4. The appellant-Society is engaged in the production of Handloom clothes. It is stated in the memorandum of appeal that the respondents in the appeal had directed the appellants and similarly situated persons to effect sales of Handloom during festival season, particularly in 1993, by granting discount to the customers. Such sales are called rebate sales.

5. The usual practice that prevail was that the rebate sales of Handloom clothes during the festival season by societies like the appellant and others was reimbursed by the respondents.

6. After the completion of the festival season, the appellant Society gone before the respondents for reimbursement of the discount it had offered to the purchasers of Handloom clothes. The same had been rejected by the respondents. Aggrieved by the said action, the appellant

Society was before this Court in O.P.No.16656 of 1998. This Court by its order dated 14.11.2003 had rejected the writ petition. Aggrieved by the same, the appellant Society is before us in this appeal.

7. Learned counsel appearing for the appellant Society, at the time of hearing of this appeal, would submit that in more or similar matters a Division Bench of this Court while disposing of several Writ Appeals filed by similar Societies, has passed certain orders directing the respondents to consider the individual cases of the appellants independently.

8. The orders passed by a Bench of this Court is as under:

> These appeals are at the instance of the respondents – State and the Director of Handlooms in the writ petitions. In some of these cases there is delay in filing the appeals. The delay is condoned. The issue pertains to the claim made by the writ petitioners – Handloom Co-operative societies for rebate. According to them, the claims for the amounts suffered by them for the rebate sale conducted as per the directions issued by the State and the Director of Handlooms have been denied without any justifiable reason. It is their contention that the claims had been verified by field officers and had duly recommended the same. The stand taken by the State and the Director of Handlooms is that the writ petitioners made false claims by fabricating documents. According to the State no rebate sale as such was conducted as claimed by the writ petitioners and hence the Societies were not entitled to the rebate. The learned single judge by common judgment dated 26.3.2001, after elaborately discussing the factual and legal position, disposed of the writ petitions issuing a direction to the Director of Handlooms to issue notice to the Societies, hear their objections and to pass fresh orders.
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> 2. Learned Government Pleader on behalf of the appellants submits that in view of the observations contained in the judgment, there is hardly any scope of enquiry. There is also a submission that large amounts are due from the Societies to the Government and hence there is no justification in any case for the direction regarding payment of interest.
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> 3. After having heard the learned counsel appearing for the respondents also, we do not find any basis for the apprehension regarding the scope of enquiry. We make it clear that it will be open to the Director of Handlooms to conduct

> appropriate enquiry with notice to the individual societies, peruse records and pass appropriate orders in accordance with law regarding the claim for rebate, untrammelled by any of the observations contained in the judgment. The claim made by the writ petitioners for interest on the eligible amounts by way of rebate will also be considered by the Director of Handlooms on merits. Since the issue pertains to the year 1993 onwards, there will be a direction to the Director of Handlooms to complete the process of enquiry as above and pass final orders in the case of each society within a period of three months from the date of production of a copy of this judgment."

9. The issues raised in this appeal are more or less identical with the issues raised and considered by this Court in W.A.No.2991 of 2001 and connected matters, disposed of on 23.05.2006. Therefore, following the observations made in the aforesaid Writ Appeals, this appeal is also disposed of. The respondents are directed to consider the request of the appellant Society in accordance with law keeping in view the observations made by this Court in W.A.No.2991 of 2001 and connected matters.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-